

JOURNAL OF THE HOUSE.

Tuesday, July 15, 2008.

Met according to adjournment, at eleven o'clock A.M., with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

God, Our Creator, we depend upon You and Your assistance in our daily efforts to serve You, our constituents and the Commonwealth in a constructive, well thought out and creative manner. Inspire us to respond thoughtfully, not emotionally, to the many needs of the times as we together, as elected leaders, address the concerns of families, neighborhoods and communities. May we continue to build confidence in each other, in our institutions and in our ability as a nation to cope with the challenges, many unique, of this era. Teach us to look for and to expect excellence in all of our human endeavors in this competitive world of labor, economics, education and research. Let our hearts and minds be filled with confidence, hope and enthusiasm.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Message from the Governor.

A message from His Excellency the Governor submitting requests for making appropriations for the fiscal year 2008 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4971) was filed in the office of the Clerk on Sunday, July 13.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Ways and Means.

Statement Concerning Representative Golden of Lowell.

A statement of Mr. Petrolati of Ludlow concerning Mr. Golden of Lowell was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Golden of Lowell, will not be present in the House Chamber for today's sitting due to his attending the Emerging Political Leaders Program at the Darden School of Business at the University of Virginia. Any roll calls that he may miss today or for the next several days will be due entirely to the reason stated.

Statement of Representative Koczera of New Bedford.

A statement of Mr. Koczera of New Bedford was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I will not be present in the House Chamber for the remainder of today's sitting due to a previously scheduled engagement in my district. Any roll calls that I may miss will be due entirely to the reason stated.

Statement Concerning Representative Sanchez of Boston.

A statement of Mr. Petrolati of Ludlow concerning Mr. Sanchez of Boston was spread upon the records of the House, as follows:

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MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Sanchez of Boston, will not be present in the House Chamber for today's sitting due to his attending the Emerging Political Leaders Program at the Darden School of Business at the University of Virginia. Any roll calls that he may miss today or for the next several days will be due entirely to the reason stated.

Statement Concerning Representative Walz of Boston.

A statement of Mr. Petrolati of Ludlow concerning Ms. Walz of Boston was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Walz of Boston, will not be present in the House Chamber for today's sitting due to her attending the Emerging Political Leaders Program at the Darden School of Business at the University of Virginia. Any roll calls that she may miss today or for the next several days will be due entirely to the reason stated.

Resolutions.

Resolutions (filed with the Clerk by Representatives Kujawski of Webster, Peterson of Grafton, Alicea of Charlton, Gobi of Spencer and Frost of Auburn) congratulating Michael D. Yacino on being named the 2008 recipient of the Francis W. Sargent Conservation Award, were referred, under Rule 85, to the committee on Rules.

Mr. Scaccia of Boston, for the committee on Rules, then reported that the resolutions ought to be adopted. Under suspension of the rules, on motion of Mr. Verga of Gloucester, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Order.

The following order (filed by Mr. Pedone of Worcester) was referred, under Joint Rule 30, to the committees on Rules of the two branches, acting concurrently:

Ordered, That, notwithstanding the provisions of Joint Rule 10, the committee the Municipalities and Regional Government be granted until Thursday, July 31, 2008 the time within which to report on current House document numbered 4836.

Mr. Scaccia of Boston, for the committees on Rules, then reported that the order ought to be adopted. Under suspension of the rules, on motion of Mr. Pedone, the order was considered forthwith; and it was adopted. Sent to the Senate for concurrence.

Papers from the Senate.

The House Bill establishing a sick leave bank for Richard K. Ward II, an employee of the department of correction (House, No. 4819) came from the Senate passed to be engrossed, in concurrence, with an amendment adding at the end thereof the following sentence: "Sick leave bank days may not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the trial court."

Under suspension of Rule 35, on motion of Mr. Rice of Gardner, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

The House Bill establishing a sick leave bank for Shannon Crouse, an employee of the Trial Court (House, No. 4866, amended) came from the Senate passed to be engrossed, in concurrence, with an amendment adding at the end thereof the following sentence: "Sick leave bank days may not be used for

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absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the trial court.”.

Under suspension of Rule 35, on motion of Mr. Speranzo of Pittsfield, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

The House Bill establishing a sick leave bank for Mary Mercurio, an employee of the Department of Social Services (House, No. 4868) came from the Senate passed to be engrossed, in concurrence, with an amendment adding at the end thereof the following sentence: “Sick leave bank days may not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the department.”.

Under suspension of Rule 35, on motion of Mr. O'Day of West Boylston, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

The House Bill establishing a sick leave bank for Sarah Carmichael, an employee of the Department of Youth Services (House, No. 4882) came from the Senate passed to be engrossed, in concurrence, with an amendment adding at the end thereof the following sentence: “Sick leave bank days may not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the department.”.

Under suspension of Rule 35, on motion of Ms. Peisch of Wellesley, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

A Bill concerning marriage laws (Senate, No. 800) (on a part of Senate order, No. 2632), passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, Senate, No. 2803) of Brian A. Joyce, Robert S. Creedon, Jr., Christine E. Canavan, Geraldine Creedon and other members of the General Court (by vote of the town) for legislation to authorize the issuing of a certain special license in the town of Easton for the sale of all alcoholic beverages. To the committee on Consumer Protection and Professional Licensure.

Petition (accompanied by bill, Senate, No. 2801) of Bruce E. Tarr and Harriett L. Stanley (by vote of the town) for legislation to establish a selectmen-administrator form of government for the town of Newbury.; and

Petition (accompanied by bill, Senate, No. 2802) of Bruce E. Tarr and Harriett L. Stanley (by vote of the town) for legislation to increase the membership of the Board of Selectmen in the town of Newbury; Severally to the committee on Municipalities and Regional Government.

Reports of Committees.

A report of the committee on Judiciary, that the recommitted House Bill relative to controlled substances (House, No. 4434) ought NOT to pass (under Joint Rule 10), was considered forthwith, under suspension of the rules, on motion of Mr. deMacedo of Plymouth.

The question: “Shall this bill be rejected (under Joint Rule 10)?” then was negatived; and, on further motion of the same member, the bill was recommitted to the committee on the Judiciary.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill to promote cost containment, transparency and efficiency in the delivery of quality health care (Senate, No. 2660) ought to pass with an amendment by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4974. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling with the amendment pending.

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Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House; and, under said rule, it was placed in the Orders of the Day for the next sitting for a second reading, with the amendment pending.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill prohibiting auto glass insurance claims third party billers from participating as vendors of auto glass replacement and/or repair services for the same insurance carrier (House, No. 1102) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House; and, under said rule, it was placed in the Orders of the Day for the next sitting for a second reading.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the following matters be scheduled for consideration by the House:

Senate bills

Relative to the Martha's Vineyard land bank (Senate, No. 1180)

Relative to the Recreation Revolving Fund in the town of Rutland (Senate, No. 2519) and

The House Bill exempting the position of police captain in the town of Hudson from the provisions of the civil service law (House, No. 4777)

Severally placed in the Orders of the Day for the next sitting for a second reading.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill further regulating the installation of automatic sprinkler systems (House, No. 2284, changed) ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4969).

By the same member, for the same committee, that the Bill to protect the Massachusetts pension fund from the risks of investment in Iran (House, No. 4270) ought to pass with an amendment substituting therefor a Bill to protect the Massachusetts pension fund from the risk of investment in Iran (House, No. 4970).

Severally referred, under Rule 7A, to the committee on Steering, Policy and Scheduling with the amendments pending.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the following

Bill requiring additional information to be included in an individual education program for a student with disabilities (Senate, No. 311); and

Bill relative to the oversight of inspections (Senate, No. 2473);

Severally referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Emergency Measures.

The engrossed Bill authorizing the Commissioner of Capital Asset Management and Maintenance to transfer control of a certain parcel of land in the town of Lexington (see House, No. 4202), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 47 to 0. Sent to the Senate for concurrence.

The engrossed Bill relative to the benefits of certain court employees (see House, No. 4857, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 8 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) (which had been returned by His Honor the Lieutenant-Governor, Acting

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Governor, with recommendation of amendment) was passed to be re-enacted, in its amended form; and it was signed by the acting Speaker and sent to the Senate.

Engrossed Bills.

Engrossed bills

Relative to health inspectors of the city of Somerville (see Senate, No. 2168, amended) (which originated in the Senate);

Establishing a sudden infant death syndrome advisory council (see House, No. 1678); and

Designating a certain traffic rotary in the city of Everett as the Edward G. Connolly memorial rotary (see House, No. 3634);

(Which severally originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Orders of the Day.

The motion of Mr. Bosley of North Adams, that the vote be reconsidered by which the House, on Wednesday, July 9, passed to be engrossed the House Bill relative to eminent domain takings (House, No. 1770, amended), was negatived.

House bills

Prohibiting restrictive covenants for social workers (House, No. 1873) (its title having been changed by the committee on Bills in the Third Reading);

Relative to the interest rate to be charged upon apportioned betterment assessments for the Weweantic Sewer Project in the town of Wareham (House, No. 3985);

Relative to equality in the MassHealth program (House, No. 4107) (its title having been changed by the committee on Bills in the Third Reading);

Authorizing the State Secretary to place an election on certain state ballots (House, No. 4865); and

Relative to the Route 3A corridor in the town of Weymouth (House, No. 4917);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

Senate bills

To maintain transition age requirements for students with disabilities (Senate, No. 286);

Authorizing the city of Fitchburg to lease certain park land to the Wallace Civic Center and Planetarium (Senate, No. 2589); and

Establishing a sick leave for Karen Fowles, an employee of the Massachusetts Rehabilitation Commission (Senate, No. 2730, amended); and

House bills

To ensure secure voting equipment (House, No. 670);

Relative to the town of Duxbury (House, No. 4380);

To limit use of eminent domain in the city of Amesbury (House, No. 4583);

Regarding the Department of Telecommunications and Cable (printed in House, No. 4816);

Designating rolling rock as the official glacial rock of the Commonwealth (House, No. 4823);

Relative to the post retirement liability fund in the town of Needham (House, No. 4826);

Authorizing certain appropriations from the town of Bridgewater's capital projects fund (House, No. 4848);

Relative to unpaid municipal fines (House, No. 4883);

Authorizing the State Secretary to place the office of selectman on the state election ballot in the town of Topsfield (printed in House, No. 4884); and

Validating the action taken at the special town election held in the town of Oak Bluffs (printed in House, No. 4932);

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Severally were read a second time; and they were ordered to a third reading.

The House Bill requiring automatic external defibrillators in health and wellness facilities (Hose, No. 3888) was read a second time.

The amendments previously recommended by the committee on Public Health,- - that the bill be amended in section 2, in line 9, by inserting after the words “against an” the word “charitable”; and in section 3, in line 1, by inserting after the word “All” the word “charitable”,- -were adopted.

The bill (House, No. 3888, amended) then was ordered to a third reading.

The House Bill relative to biomedical research (House, No. 4695) was read a second time.

The amendment previously recommended by the committee on Health Care Financing,- - that the bill be amended by substitution of a bill with the same title (House, No. 4812),- - was adopted.

The substituted bill then was ordered to a third reading.

The House Bill relative to clear and conspicuous price disclosure (House, No. 4858) was read a second time.

The amendment previously recommended by the committee on Ways and Means,- - that the bill be amended by substitution of a bill with the same title (House, No. 4966),- -was adopted.

The substituted bill then was ordered to a third reading. <ctrrule>

The House Bill establishing the Massachusetts creative economy council (House, No. 4309) was read a second time.

The amendment previously recommended by the committee on Ways and Means,- - that the bill be amended by substitution of a bill with the same title (House, No. 4965),- -was considered.

Mr. Murphy of Lowell and other members of the House then moved that the proposed substitute bill be amended in section 1, in paragraph (b), by striking out the figures “23” and inserting in place thereof the figures “24” and in said paragraph by inserting after the words “the Massachusetts College of Art or her designee” the following: “; 1 of whom shall be the Chancellor of the University of Massachusetts Lowell or his designee”.

The further amendments were adopted.

The amendment recommended by the committee on Ways and Means, as amended, then was adopted; and the substituted bill (House, No. 4965, amended) was ordered to a third reading.

Recess.

At twenty-four minutes before twelve o'clock noon, on motion of Ms. Rogeness of Longmeadow (Mr. Donato of Medford being in the Chair), the House recessed until half past one o'clock P.M.; and at fourteen minutes before two o'clock the House was called to order with Mr. Petrolati of Ludlow in the Chair.

Engrossed Bill -- Land Taking.

The engrossed Bill authorizing the granting of an easement by the town of Sharon (see House bill printed in House, No. 4738) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 153 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 425 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Orders of the Day.

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The House Bill relative to school district accountability (House, No. 4859) was read a second time.

After remarks on the question on ordering the bill to a third reading, the amendment previously recommended by the committee on Ways and Means,- - that the bill be amended by substitution of a bill with the same title (House, No. 4967),- -was considered.

Ms. Wolf of Cambridge then moved to amend the proposed substitute bill in section 2, in paragraph 1, by inserting after the words "Association of School Committees," the following: "1 of whom shall be selected from a list of 3 nominees with expertise in health or health education offered by the Massachusetts Association of School Nurses;"; after the words "shall consist of", by striking out the following: "15 members" and inserting in place thereof the following: "17 members", and after the words "commitment to education and", by striking out the figure "8" and inserting in place thereof the figure "9".

After remarks the further amendments were rejected.

The amendment recommended by the committee on Ways and Means then was adopted.

On the question on ordering the substituted bill to a third reading, the sense of the House was taken by yeas and nays, at the request of Mrs. Haddad of Somerset;and on the roll call 153 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 426 in Supplement.]

Therefore the substituted bill was ordered to a third reading.

Under suspension of the rules, on motion of Mrs. Haddad, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

The House Bill financing an accelerated structurally-deficient bridge improvement program (House, No. 4935) was read a second time.

The amendment previously recommended by the committee on Ways and Means,- - that the bill be amended by substitution of a bill with the same title (House, No. 4968),- -was considered.

After debate the amendment was adopted; and the substituted bill was ordered to a third reading.

Under suspension of the rules, on motion of Mr. Wagner of Chicopee, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time.

Pending the question on passing the bill to be engrossed, Mr. DeLeo of Winthrop moved to amend it in section 10(a) by striking out the words "Notwithstanding any general or special law to the contrary, in" and inserting in place thereof the word "In"; and the amendment was adopted.

Messrs. DeLeo and Wagner of Chicopee then moved to amend the bill by inserting after section 2A the following section:

"SECTION 2B. Chapter 6A of the General Laws is hereby amended by inserting after section 8B the following new section:-

Section 8C. (a) There shall be established a structurally deficient bridge improvement program coordination and oversight council, hereinafter referred to as the council. The council shall consist of a chair appointed by the governor, the secretary of the executive office of administration and finance, or his designee, the secretary of the executive office of transportation and public works, the secretary of the executive office of energy and environmental affairs, the commissioner of the department of highways, the commissioner of the department of conservation and recreation, and the commissioner of the division of capital asset management and maintenance.

(b) Said council shall be responsible for the coordination and oversight of the accelerated structurally deficient bridge improvement program including, without limitation: (i) ensuring regular communication and coordination between the department of highways and the department of conservation and recreation as to their bridge development projects, programs and plans and any regulations or guidelines promulgated pursuant thereto; (ii) establishing and implementing project controls to ensure adequate tracking and reporting of program progress, cost and schedules; (iii) establishing an annual structurally deficient bridge improvement plan which shall include the number and location of bridges which shall be replaced or rehabilitated in the preceding year and the cost estimates of said replacement or rehabilitation;

(iv) directing appropriate agencies to provide technical assistance as necessary to accomplish the objectives of the structurally deficient bridge improvement program; (v) coordinating and resolving any inconsistencies between capital investments made pursuant to commonwealth's capital plan; (vi) establish criteria for project selection relative to funding from the structurally deficient bridge improvement program.

(c) The council shall annually, not later than December 31st, submit a report of its activities to the chairs of the house and senate committees on ways and means, the chairs of the joint committee on bonding, capital expenditures and state assets and the chairs of the joint committee on transportation.

The council shall annually submit a report pursuant to clause (iii) of subsection (b) not later than December 31st to the chairs of the house and senate committees on ways and means, the chairs of the joint committee on bonding, capital expenditures and state assets and the chairs of the joint committee on transportation.

(d) The council shall meet at least quarterly. The secretary of executive office of transportation shall provide personnel necessary to coordinate the activities of the council and to provide administrative support to the council, as requested.”.

The amendment was adopted.

Mr. Walsh of Boston then moved to amend the bill by adding the following section:

“SECTION 15. Notwithstanding any general or special law to the contrary, a private entity engaged in a construction, development, renovation, remodeling, reconstruction, rehabilitation or redevelopment project receiving funds pursuant to this act shall properly classify individuals employed on the project and shall comply with all laws concerning workers' compensation insurance coverage, unemployment insurance, social security taxes and income taxes with respect to all such employees. All construction contractors engaged by an entity on any such project shall furnish documentation to the appointing authority showing that all employees employed on the project have hospitalization and medical benefits that meet the minimum requirements of the connector board established in chapter 176Q of the General Laws.”.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 153 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 427 in Supplement.]

Therefore the amendment was adopted.

On the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Wagner of Chicopee; and on the roll call 152 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 428 in Supplement.]

Therefore the bill (House, No. 4792, printed as amended) was passed to be engrossed. Sent to the Senate for concurrence.

At twenty minutes before four o'clock P.M., on motion of Mr. Wagner of Chicopee (Mr. Petrolati of Ludlow being in the Chair), the House recessed until the hour of four o'clock; and at ten minutes after four o'clock the House was called to order with Mr. Petrolati in the Chair.

Mr. Flynn of Bridgewater thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 150 members were recorded as being in attendance. No. 429.

[See Yea and Nay No. 429 in Supplement.]

Therefore a quorum was present.

The Senate Bill relative to rates for human and social service programs (Senate, No. 2764, amended) was read a second time.

After debate on the question on ordering the bill to a third reading, the sense of the House was taken by yeas and nays, at the request of Ms. Coakley-Rivera of Springfield; and on the roll call (Mr. Donato of Medford being in the Chair) 152 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 430 in Supplement.]

Therefore the bill (Senate, No. 2764, amended) was ordered to a third reading.

Under suspension of the rules, on motion of Ms. Coakley-Rivera, the bill was read a third time.

The committee on Bills in the Third Reading reported recommending that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4973; and the report was accepted.

The amendment was adopted; and the bill (Senate, No. 2764, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment.

Order.

On motion of Mr. DiMasi of Boston,--

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at eleven o'clock A.M.

Accordingly, without further consideration of the remaining matter in the Orders of the Day, at ten minutes before five o'clock P.M., on motion of Mr. Tobin of Quincy (Mr. Donato of Medford being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M.